IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 11651 of 2002

Between:

T. Raghu Ramaiah, s/o. Ramanaiah, Aged:36 years, Driver, Staff No.515210, APSRTC, Kavali Depot, Nellore District, R/o. Rajaramreddynagar, Kothur, Nellore Town.

..... PETITIONER

AND

The Regional Manager, APSRTC, Nellore Region, Nellore.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, writ or direction more particularly a writ of mandamus under Article 226 of the Constitution of India, declaring the office order No.E1/684/(1)/98-RM(N) dated 18-05-2002 issued by the respondent in so far as placing petitioner as junior to the drivers recruited subsequent to the petitioner and the inaction of the respondent in regularizing petitioner's services as driver while regularizing the services of petitioner juniors and the further action of the respondent in seeking to terminate petitioner services w.e.f. 30-06-2002 as illegal, arbitrary, unjust, discriminatory and therefore violative of Article 14 of the Constitution of India and consequently set aside Clause No.2 of the above said order and to direct the respondent to regularize the service of petitioner as driver considering his recruitment and service as driver Grade-II by due process.

Counsel for the Petitioner:MR.P.SRIDHAR REDDY

Counsel for the Respondent: MR. C.V. RAMULU, SC FOR APSRTC.

The Court made the following :

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ORDER:

The petitioner was selected for the post of Casual Driver Grade-II on daily wages of Rs.102/-, vide proceedings No.E1/684(1)/97-RM (NLR) dated 03-12-1997 and posted to Rapur Depot. He joined at Rapur Depot on 6-12-1997. It is stated that the service of the petitioner was engaged as and when there was necessity. During the period of the slack season, he along with others were disengaged from their services and the said disengagement made by the respondent was strictly in accordance with the seniority that was maintained in the selected list of the Causal Drivers Grade-II. It is further stated that the petitioner was transferred from Rapur Depot to Kavali Depot on 18-01-2001, and he was disengaged at Kavali on 07-07-2001, due to the curtailment of the schedules on account of the slackness measures, and he was re-engaged on 18-05-2002 at Kavali Depot. While issuing the re-engagement orders, it was mentioned that he would be junior to the persons, who worked during the strike period. The petitioner filed this writ petition questioning the said order.

Learned counsel appearing for the petitioner submits that seniority of the petitioner is not maintained and the juniors to the petitioner, who worked during the strike period, were treated as his seniors and their services were regularized whereas the service of the petitioner was not regularized.

The only question that arises for consideration is whether the petitioner will loose his seniority over his juniors merely because some of the juniors have worked during the strike period?

Admittedly, there is no record to show that the petitioner was asked to work during the strike period and that he was not inclined to work in the strike period. The petitioner cannot loose his seniority over his juniors merely on the ground that some of the juniors worked during the strike period. Therefore, I am of the opinion that the action of the respondent in treating the petitioner as junior to the persons, who worked during the strike period as his seniors, is illegal and unsustainable.

Accordingly, the writ petition is allowed directing the respondent to consider the case of the petitioner to regularize his service as driver on par with the juniors. No order as to costs.

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16-11-2004

To

1. The Regional Manager, APSRTC, Nellore Region, Nellore.

2. Two C.D. copies.

Sj

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Tuesday, the Sixteenth day of November, Two thousand and four.

REGISTRAR